

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of CHRISTIAN MICHAEL
WRIGHT, Minor.

DEBRA S. WAUGH,

Petitioner-Appellee,

v

MICHAEL LAWRENCE WRIGHT,

Respondent-Appellant,

and

AMANDA BECHARD,

Respondent.

UNPUBLISHED
March 8, 2007

No. 272435
Emmet Circuit Court
Family Division
LC No. 06-005358-NA

Before: Servitto, P.J., and Talbot and Schuette, JJ.

PER CURIAM.

Respondent, Michael Lawrence Wright, appeals as of right from the trial court order terminating his parental rights under MCL 712A.19b(3)(g), (h), (j), and (n). We affirm.

I. FACTS

The child's mother, Amanda Bechard,¹ placed Christian in a guardianship with petitioner at the age of three. Respondent was incarcerated for most of Christian's life, with the exception of a few months, and he has never met Christian. After learning that Christian was with petitioner, he sent a few cards and attempted to call a few times with no response. The trial court granted petitioner's petition to terminate parental rights when Christian was nine years old. Respondent now appeals that order.

¹ The trial court's order terminated Bechard's parental rights to Christian as well as respondent's. Because Bechard is not a party to this appeal, however, all references to "respondent" refer to Michael Lawrence Wright only.

II. STATUTORY GROUNDS FOR TERMINATION

A. Standard of Review

Termination of parental rights is appropriate where petitioner proves by clear and convincing evidence at least one ground for termination. *In re Trejo*, 462 Mich 341, 356; 612 NW2d 407 (2000). Once this has occurred, the trial court must terminate parental rights unless it finds that the termination is clearly not in the best interests of the child. *Id.* at 364-365. This Court reviews the trial court's findings under the clearly erroneous standard. MCR 3.977(J); *In re JK*, 468 Mich 202, 209-210; 661 NW2d 216 (2003). A finding of fact is clearly erroneous if a reviewing court has a definite and firm conviction that a mistake was made, giving due regard to the trial court's special opportunity to observe the witnesses. *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989).

B. Analysis

The trial court did not clearly err in finding that the statutory bases for termination were established by clear and convincing evidence. MCR 3.977(J); *In re Trejo*, *supra* at 356-357. Under MCL 712A.19b(3)(g), termination of parental rights is appropriate when "[t]he parent, without regard to intent, fails to provide proper care or custody for the child and there is no reasonable expectation that the parent will be able to provide proper care and custody within a reasonable time considering the child's age." Respondent argues that he provided "proper care and custody where he agreed to the guardianship and cites *In re Systma*, 197 Mich App 453; 495 NW2d 804 (1992). In that case, the mother placed the child with relatives and then died. The respondent father was incarcerated, had nothing to do with his child in some time, and did not take any action regarding the guardianship. The *Systma* Court upheld the trial court's finding that subsection (g) was established because the respondent father had not provided proper care and custody where he was not involved in the guardianship or providing other care for his child. *Id.* at 456-457. Here, respondent did not agree to the guardianship, but did not object to the placement of Christian with petitioner. Respondent also had no relationship with his son. Therefore, the trial court did not clearly err in finding that subsection (g) was established by clear and convincing evidence.

Regarding subsection (h), the trial court did not clearly err in finding that grounds for termination were established by clear and convincing evidence. MCL 712A.19b(3)(h) provides as follows:

The parent is imprisoned for such a period that the child will be deprived of a normal home for a period exceeding 2 years, and the parent has not provided for the child's proper care and custody, and there is no reasonable expectation that the parent will be able to provide proper care and custody within a reasonable time considering the child's age.

Even if respondent were released one year from the trial date, the trial court did not clearly err in finding that he would not be able to provide a proper home because respondent would need more than another year to provide Christian with a normal home. Additionally, respondent did not provide for Christian's proper care and custody because it was Bechard who established the

guardianship with petitioner. Therefore, the trial court did not clearly err in finding that subsection (h) was established by clear and convincing evidence.

With respect to subsection (j), the trial court did not clearly err in finding that “[t]here is a reasonable likelihood, based on the conduct or capacity of the child’s parent, that the child will be harmed if he or she is returned to the home of the parent.” MCL 712A.19b(3)(j). There was a reasonable likelihood, based on respondent’s conduct or capacity, that Christian would be harmed if returned to respondent’s home. Respondent was in prison and had no home for Christian to return to. Respondent had a lengthy criminal history and no parenting skills. Therefore, the trial court did not clearly err in finding that subsection (j) was established by clear and convincing evidence.

Finally, under subsection (n), termination of parental rights is appropriate when “the parent is convicted of [a crime set forth in the statute] and the court determines that termination is in the child’s best interests because continuing the parent-child relationship with the parent would be harmful to the child.” MCL 712A.12b(3)(n). The trial court did not clearly err in finding that respondent was convicted of criminal sexual conduct and that termination was in Christian’s best interests because continuing the parent-child relationship would be harmful to Christian. It would be harmful to Christian to begin a relationship with respondent, a sex-offender, at age nine where Christian had already overcome an unstable home life.

III. BEST INTERESTS OF THE CHILD

A. Standard of Review

Once a statutory ground for termination is established by clear and convincing evidence, the trial court must terminate parental rights unless termination clearly is not in the child’s best interests. MCL 712A.19b(5); *In re Trejo, supra* at 364-365. The trial court’s decision on the best interests question is reviewed for clear error. *In re Trejo, supra* at 356-357.

B. Analysis

The trial court did not clearly err in its best interests determination. Respondent had never met Christian and argues that petitioner prevented him from having contact with Christian. However, the trial court properly considered only Christian’s best interests and not fairness to respondent. Respondent could not care for Christian in the near future and it is questionable if respondent would ever be able to provide a stable home environment because of his repeated incarcerations and criminal history. Therefore, the trial court did not clearly err in its best interests determination.

Affirmed.

/s/ Deborah A. Servitto
/s/ Michael J. Talbot
/s/ Bill Schuette